



*Genine*  
Attorney General  
STATE CAPITOL  
Phoenix, Arizona 85007

Robert R. Corbin

ARIZONA LAW LIBRARY  
ATTORNEY GENERAL

July 21, 1980

John T. Hestand, Esq.  
Deputy County Attorney  
Office of the Pinal County Attorney  
Florence, AZ 85232

Re: I80-138 (R80-144)

Dear Mr. Hestand:

We have reviewed your opinion dated June 12, 1980, to the Pinal County School Superintendent, in which you responded to questions concerning permissible fringe benefits which may be provided by a school district to its superintendent and by the county school superintendent to his employees.

We concur with your conclusions that disability insurance, housing allowances, medical insurance, life insurance and tuition allowances are fringe benefits which may be part of a compensation package provided by a school district. See Op. Atty. Gen. Nos. 79-121, 77-172 and 78-7. However, with respect to the provision of a district owned or leased vehicle to its superintendent, we refer you to our recent opinion I80-137. As indicated in that opinion, a district-owned or leased vehicle must contain the insignia required in A.R.S. § 28-1441, which makes it inappropriate to use such vehicle for personal use.

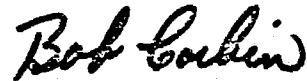
The second question addressed in your opinion is:

May the county school superintendent provide one of his/her employees with a leased vehicle?

John T. Hestand, Esq.  
July 21, 1980  
Page 2

Assuming this question refers to providing an employee with a vehicle for personal use as a fringe benefit of employment, we believe that the determination of salaries and fringe benefits for county employees falls within the powers and duties of the county board of supervisors, and does not present a school matter appropriate for review by this office pursuant to A.R.S. § 15-122.B.

Sincerely,



BOB CORBIN  
Attorney General

BC/eb

6-23-80 pc  
POLLARD  
R80-144

June 12, 1980

EDUCATION OPINION  
ISSUED NO LATER THAN  
8-23-80

Mr. Andrew M. Ramirez  
Administrative Assistant  
Pinal County School Superintendent's Office  
P. O. Box 769  
Florence, Arizona 85232

Dear Mr. Ramirez:

You requested a County Attorney's opinion.

QUESTION: I. May a school District provide all or part of  
of the following fringe benefits to its  
Superintendent.

1. Leasing a vehicle for the Superintendent's  
for both professional and personal use.
2. Providing insurance coverage against all  
liabilities that result from the  
Superintendent's professional and personal  
use of said vehicle. Is the district  
responsible for any insurance claims  
above the district's coverage, regardless  
of whether the vehicle was used for  
professional or personal use?
3. Providing long term disability insurance  
coverage up to 75% of the Superintendent's  
annual salary.
4. Providing housing allowance when the  
Superintendent resides off campus in a home  
owned by the Superintendent.
5. Providing full medical, dental and eye care  
insurance for the Superintendent and his  
family.
6. Providing life insurance for the Superintendent.
7. Providing tuition up to \$1500 for classes and  
seminars.

Mr. Andrew M. Ramirez

2.

June 12, 1980

II. May the County School Superintendent provide one of his/her employees with a leased vehicle?

ANSWER: I. Yes. See body of opinion.

II. No. See body of opinion.

OPINION: A school district has a great deal of leeway in deciding which fringe benefits to grant to its employees. This was noted in Attorney General Opinion 77-172 dated September 2, 1977. In that opinion the Attorney General's Office stated:

"A.R.S. §15-443.A generally authorizes a board of trustees to employ and fix the salaries of its employees. This section also is applicable to boards of trustees other than those for common schools. See A.R.S. §§15-496 and 15-545.A. As you correctly pointed out in your opinion, boards of trustees generally have broad powers to fix fringe benefits for their employees, as analyzed in Attorney General Opinion No. 60-24. Generally See (emphasis in original) the discussion of school district powers in Attorney Gen. Op. No. [77-192]. Because of these broad general powers, we conclude that a school district has the authority to provide insurance coverage for its employees' dependents as a benefit for its employees. Such coverage would not constitute a gift but would form a part of the compensation earned by the employee and bargained for as a part of the employee's contract with the school district.

The insurance coverage at issue in items 3, 5 and 6 are clearly permissible fringe benefits for the District to provide and are commonly provided.

The tuition which forms the basis of question seven would be a permissible expenditure for the district, if the Board concluded that the classes and seminars to be attended would benefit the district.

The remaining benefits are less common and should be discussed individually. Question 4 concerns whether it would be proper for the District to allow a housing allowance for a superintendent who lives off campus in a home owned by the superintendent. The opinions indicate that fringe benefits are a part of the compensation package earned by the employee and bargained for as a part of the employee's contract. In this case a set monthly amount could be designated as a housing allowance. The income tax consequences

Mr. Andrew M. Ramirez

3.

June 12, 1980

of such an arrangement are of course something the Superintendent must arrange with his/her own accountant. Considerable freedom exists in how an employee and a district structure the individual compensation plan and we cannot say such a program is illegal or improper.

The final benefits to be discussed are those noted in questions 1 and 2. The general rule is that a district employee should not use district vehicles for personal use. Under most circumstances it is improper for an employee to indulge in this practice. The situation you question is somewhat different. You are premising a case where a district rents or leases a vehicle for the express and exclusive use of the district's superintendent. It is written into his yearly contract that the vehicle is available for his personal use as well as the district's business and the district pays all repairs, insurance and fuel. Under the terms of the contract, no other member of the superintendent's family is allowed to use the vehicle.

While we find such a proposal to be somewhat unusual "if it is a part of the superintendent's contract and a negotiated fringe benefit, we feel it would be legal. Again the income tax consequences are left to the superintendent's individual contract.

QUESTION:

II. The second question you asked concerned whether the County School Superintendent may provide one of his/her employees with a leased vehicle which will be used for both personal and business purposes. At the risk of sounding contradictory, the office must answer this question with a no. Counties are governed by different rules than school districts and there appears to be far less freedom in the fringe benefits and compensation packages they may offer. A.R.S. §11-263 allows for the expenditure of public funds for insurance for county employees and elected officials and allows the provision of life, health, accident and disability insurance.

Because County Governments appear far more limited in their fringe benefit options, it is our conclusion that it would not be proper to rent such a vehicle for a county official.

R80- 144

Mr. Andrew M. Ramirez

4.

June 12, 1980

Should you have any further questions, please do not  
hesitate to call.

Sincerely,

ROY A. MENDOZA  
Pinal County Attorney

JOHN T. HESTAND  
Deputy County Attorney

JTH:jc

C

O

P

Y